

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAM DONTE GRAY,

No. C 08-2259 WHA (PR)

Petitioner,

**ORDER LIFTING STAY;
ADMINISTRATIVELY REOPENING
FILE; TO SHOW CAUSE**

v.

J. L. WALKER, Warden,

Respondent.

(Docket No. 18)

This is a habeas case filed pro se by a state prisoner. On June 3, 2008, the fourth claim in the petition was dismissed and respondent was ordered to show cause why the petition should not be granted based on the first three claims. Respondent filed a motion to dismiss the petition, which was denied. Petitioner moved for a stay of proceedings to allow him to exhaust his fourth claim state court, and the motion was granted.

Petitioner's request for a stay was granted. Petitioner has now filed a motion to lift the stay in which he indicates that he no longer wishes to exhaust his fourth claim. Good cause appearing, petitioner's motion to lift the stay (docket number 18) is **GRANTED**.

Respondent shall file with the court and serve on petitioner, within ninety days of the date this order is filed, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted based on the three cognizable claims in the petition, namely that (1) petitioner's rights to confrontation, due process, and effective assistance of counsel were violated by the prosecutor's withholding exculpatory evidence from the defense; (2) the prosecutor committed misconduct by vouching

1 for a witness; and (3) the prosecutor committed misconduct in closing argument. Respondent
2 shall file with the answer and serve on petitioner a copy of all portions of the state trial record
3 that have been transcribed previously and that are relevant to a determination of the issues
4 presented by the petition.

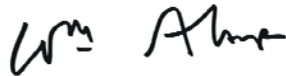
5 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the
6 court and serving it on respondent within thirty days of the date the answer is filed.

7 Petitioner is reminded that all communications with the court must be served on
8 respondent by mailing a copy of the document to respondent's counsel. Papers intended to be
9 filed in this case should be addressed to the clerk rather than to the undersigned. Petitioner also
10 must keep the court informed of any change of address by filing a separate paper with the clerk
11 headed "Notice of Change of Address," and must comply with any orders of the court within
12 the time allowed or ask for an extension of that time. Failure to do so may result in the
13 dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure
14 41(b).

15 The clerk shall administratively **REOPEN** the file.

16 **IT IS SO ORDERED.**

17 Dated: November 20, 2009.

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20 WILLIAM ALSUP
21 UNITED STATES DISTRICT JUDGE
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